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In re Application of:	:	
LOSCALZO, Joseph, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/692,724	:	PETITION UNDER
Filing Date: October 27, 2003	:	37 CFR 1.78(a)(3)
Atty Docket No.: 102258-170 US3	:	
For: METHODS OF TREATING	:	
VASCULAR DISEASES	:	
CHARACTERIZED BY NITRIC	:	
OXIDE INSUFFICIENCY	:	

In decisions mailed by this Office on July 22, 2008 and February 23, 2009, applicants' previous petitions under 37 CFR 1.78(a)(3) were dismissed for failure to satisfy all the requirements of a grantable petition. Specifically, the amendments and application data sheets (ADS) submitted with the previous petitions did not contain acceptable references with respect to the prior-filed non-provisional and international applications.

On March 13, 2009, applicants filed the "Second Renewed Petition To Accept Unintentionally Delayed Priority Claim Under 37 CFR 1.78" considered herein. The renewed petition was accompanied by an "Amendment Under 37 CFR 1.312" and a supplemental ADS that includes acceptable references identifying the present application as a "continuation of U.S. Application No. 10/687,706 filed October 20, 2003, which is a continuation of U.S. Application No. 10/415,136 filed April 25, 2003, which is a 371 of PCT/US01/14245 filed May 2, 2001 which is a continuation-in-part of PCT/US00/29528 filed October 27, 2000, which claims priority to U.S. Provisional Application No. 60/179,020 filed January 31, 2000, and U.S. Provisional Application No. 60/162,230 filed October 29, 1999."<sup>1</sup> The submission also corrects an additional priority claim in the application to identify the present application as a "continuation-in-part of U.S. Application No. 10/679,257, filed October 7, 2003, which is a divisional of U.S. Application No. 09/697,317, filed October 27, 2000."<sup>2</sup> Thus, applicants have now satisfied the final requirements for a grantable petition.

Having found that the renewed petition, in combination with the previous petitions, satisfies all the conditions of 37 CFR 1.78(a)(3), the petition is appropriately **GRANTED**.

<sup>1</sup> It is noted that the present application already includes effective benefit claims directed to these two provisional applications via a separate chain of priority.

<sup>2</sup> U.S. Application No. 10/679,257 was previously incorrectly identified as a continuation of U.S. Application No. 09/697,317.

*The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed non-provisional and international applications. In order for this application to be entitled to the benefit of the prior filed international application, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.*

A corrected Filing Receipt, which includes the additional priority claims added through the present petition, is attached hereto.

Any questions concerning this decision may be directed to Richard M. Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

*Bryan Lin*

Bryan Lin  
Legal Examiner  
Office of PCT Legal Administration

Encl: Corrected Filing Receipt